

Exhibit B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

22-CR-109 (LJV)

PAYTON GENDRON,

Defendant.

DEFENDANT’S PROPOSED SCHEDULING ORDER

Discovery Motions

February 16, 2024: The United States shall make available to the defendant all non-expert Fed. R. Crim. P. 16 discovery and all material for which disclosure is mandated by *Brady v. Maryland*, 373 U.S. 83 (1963).¹

May 2, 2024: Defense discovery motions:

- Motion for Informational Outline regarding aggravating factors;
- Motion for Bill of Particulars;
- Discovery relating to statutory and non-statutory aggravating factors contained in Notice of Intent to Seek the Death Penalty;
- Discovery relating to potential mitigating factors, e.g., evidence regarding conditions of confinement relevant to the absence of future danger;
- Case-specific discovery.²

June 3, 2024 Government responses to defense discovery motions.

¹ This deadline is subject to the parties’ continuing discovery obligations.

² This pleading refers to specific items of discovery identified by the defense as missing or incomplete from previous disclosures. The process of reviewing discovery that has been provided and identifying and requesting additional material from the government has been ongoing throughout the pendency of this case and the parties have worked together to resolve any such matters without court involvement. Accordingly, the defense will file specific motions to compel discovery only if necessary and will reach out to the government in advance in an attempt to resolve these issues short of litigation.

July 1, 2024	Defense replies to government responses to discovery motions.
July 17, 2024	Oral argument/evidentiary hearings on motions and requests.
August 19, 2024	All ordered disclosures due (informational outline regarding aggravating evidence, bill of particulars, etc.; all disclosures by United States under Fed. R. Evid. 404(b)(3), Fed. R. Evid. 609, and Fed. R. Evid. 807(b)).

Specific, Non-Discovery Dependent Pleadings

June 3, 2024	Motion to Dismiss 18 U.S.C. § 924 (c) Counts; challenges to the constitutionality of the Federal Death Penalty Act; claims that the government is categorically precluded from seeking the death penalty due to the defendant's age.
July 3, 2024	Government responses to defense motions challenging pleadings and evidence.
July 31, 2024	Defense replies to government responses to defense motions challenging pleadings and evidence.
August 28, 2024	Oral argument/evidentiary hearing on defense motions challenging pleadings and evidence.

14 days after rulings on previously filed defense motions:

Parties to confer and file joint proposed scheduling order covering litigation of discovery-dependent defense motions challenging pleadings and evidence (including motions challenging 404(b), validity of aggravating factors, motions to suppress, motions to enforce constitutional limits on victim impact evidence, motions to limit video/demonstrative evidence), to be followed by litigation related to trial procedures, such as Rule 12.2, venue, and jury selection.